

NOT TO BE PUBLISHED

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT

(Placer)

RUSSELL BOSTON,

Plaintiff and Appellant,

v.

DENNIS C. LANNI,

Defendant and Respondent.

C087811

(Super. Ct. No. SCV0039065)

Russell Boston sued Dennis C. Lanni, alleging several torts. After Boston misused the discovery process and failed to comply with a court order, the superior court, acting through a court commissioner, granted Lanni's motion for terminating sanctions and entered judgment against Boston. After the time for filing a notice of appeal had expired, Boston filed a notice of appeal from the judgment. Because the notice of appeal was untimely, we lack jurisdiction to consider Boston's contentions of error. We will therefore dismiss the appeal.

Boston has chosen to represent himself, which he has a right to do. (See *Gray v. Justice's Court* (1937) 18 Cal.App.2d 420, 423 [individuals may choose to represent

themselves].) The court must treat self-represented litigants the same as represented litigants. (*Barton v. New United Motor Manufacturing, Inc.* (1996) 43 Cal.App.4th 1200, 1210.) All the same laws and rules of procedure apply equally to attorneys and to litigants representing themselves. (*Bistawros v. Greenberg* (1987) 189 Cal.App.3d 189, 193.)

One of those rules of procedure is that a notice of appeal must be filed within 60 days after service of the notice of entry of judgment, as stated in California Rules of Court, rule 8.104(a)(1)(B), the applicable deadline in this case. Counsel for Lanni served a notice of entry of judgment on Boston on June 18, 2018, which gave the parties until August 17, 2018, to file notices of appeal.

The only appealable order of the superior court that Boston attempts to challenge on appeal is the judgment against him, which subsumes the other orders in the case entered before judgment. (*In re Baycol Cases I & II* (2011) 51 Cal.4th 751, 756.) Boston filed several notices of appeal in this case. However, the operative notice of appeal was late and failed to vest this court with jurisdiction to consider the appeal. An appellate court lacks authority to give itself jurisdiction by excusing a late filing of a notice of appeal. (*Hollister Convalescent Hospital, Inc. v. Rico* (1975) 15 Cal.3d 660, 674.) Boston filed his notice of appeal from the judgment on August 21, 2018, four days after the deadline for filing the notice. We therefore do not have jurisdiction to consider the merits of the appeal.

Boston argues that we must consider his appeal because the judgment is void. He claims he did not stipulate to having a commissioner hear the case. But even if a judgment is void (a question we cannot decide here), an appeal from that judgment must be timely filed. (*Conservatorship of Romo* (1987) 190 Cal.App.3d 279, 283.) Under California Rules of Court, rule 8.104, service of a notice of entry of the judgment, even a void judgment, commences the time for filing a notice of appeal.

Because the notice of appeal from the judgment was not timely filed, we have no jurisdiction and must dismiss the appeal.

DISPOSITION

The appeal is dismissed. Lanni is awarded his costs on appeal. (Cal. Rules of Court, rule 8.278(a).)

/S/
MAURO, Acting P. J.

We concur:

/S/
RENNER, J.

/S/
EARL, J.